

Executive Summary – Enforcement Matter – Case No. 51559
SHIN-ETSU SILICONES OF AMERICA, INC.
RN102877768
Docket No. 2015-1726-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three repeated enforcement actions (or two orders with nuisance violations) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Shin-Etsu Silicones of America, 5650 East Highway 332, Freeport, Brazoria County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: N/A

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 26, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$243

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$243

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 2 through 13, 2015

Date(s) of NOE(s): November 13, 2015

Executive Summary – Enforcement Matter – Case No. 51559
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Violation Information

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM") based on the locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 365 days, return to compliance with the locational running annual average MCL for TTHM.
- b. Within 380 days, submit written certification to demonstrate compliance with a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Farhaud Abbaszadeh, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-0779; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

TCEQ SEP Coordinator: N/A

Respondent: Kazuhiro Kitani, President and CEO, SHIN-ETSU SILICONES OF AMERICA, INC., 1150 Damar Drive, Akron, Ohio 44305

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned PCW	16-Nov-2015	Screening	23-Nov-2015	EPA Due	31-Mar-2016
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RESPONDENT/FACILITY INFORMATION

Respondent	SHIN-ETSU SILICONES OF AMERICA, INC.				
Reg. Ent. Ref. No.	RN102877768				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	51559	No. of Violations	1
Docket No.	2015-1726-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Farhaud Abbaszadeh
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$150

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **62.0%** **Adjustment** **Subtotals 2, 3, & 7** \$93

Notes Enhancement for three NOV with same/similar violations, one NOV with dissimilar violations, one order with denial of liability, and one order without denial of liability.

Culpability **No** **0.0%** **Enhancement** **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit **0.0%** **Enhancement*** **Subtotal 6** \$0

Total EB Amounts \$728
Estimated Cost of Compliance \$5,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$243

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$243

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$243

DEFERRAL **0.0%** **Reduction** **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$243

Screening Date 23-Nov-2015

Docket No. 2015-1726-PWS-E

PCW

Respondent SHIN-ETSU SILICONES OF AMERICA, INC.

Policy Revision 4 (April 2014)

Case ID No. 51559

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102877768

Media [Statute] Public Water Supply

Enf. Coordinator Farhaud Abbaszadeh

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 62%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with same/similar violations, one NOV with dissimilar violations, one order with denial of liability, and one order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 62%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 62%

Screening Date 23-Nov-2015

Docket No. 2015-1726-PWS-E

PCW

Respondent SHIN-ETSU SILICONES OF AMERICA, INC.

Policy Revision 4 (April 2014)

Case ID No. 51559

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102877768

Media [Statute] Public Water Supply

Enf. Coordinator Farhaud Abbaszadeh

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentrations for TTHM for Disinfection Byproducts Stage 2 at site 1 were 0.097 mg/L for the second quarter of 2015, 0.139 mg/L for the third quarter of 2015, and 0.143 mg/L for the fourth quarter of 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix
Notes

Exceeding the MCL for TTHM caused persons served by the Facility to be exposed to significant amounts of pollutants which do not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

275 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$150

One annual event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$728

Violation Final Penalty Total \$243

This violation Final Assessed Penalty (adjusted for limits) \$243

Economic Benefit Worksheet

Respondent SHIN-ETSU SILICONES OF AMERICA, INC.

Case ID No. 51559

Reg. Ent. Reference No. RN102877768

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	30-Jun-2015	28-Jul-2017	2.08	\$35	\$693	\$728
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to implement an alternative form of disinfection, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$728

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Compliance History Report

PUBLISHED Compliance History Report for CN600559272, RN102877768, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN600559272, SHIN-ETSU SILICONES OF AMERICA, INC.	Classification: SATISFACTORY	Rating: 0.68
Regulated Entity:	RN102877768, SHIN-ETSU SILICONES OF AMERICA	Classification: SATISFACTORY	Rating: 0.68
Complexity Points:	16	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	5650 EAST HIGHWAY 332, FREEPORT, TEXAS, BRAZORIA COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 47029

AIR NEW SOURCE PERMITS REGISTRATION 112915

WASTEWATER PERMIT WQ0004362000

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0200619

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000051029

AIR EMISSIONS INVENTORY ACCOUNT NUMBER BL0768W

AIR NEW SOURCE PERMITS ACCOUNT NUMBER BL0768W

AIR NEW SOURCE PERMITS AFS NUM 4803900724

WASTEWATER EPA ID TX0124427

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 87160

STORMWATER PERMIT TXR05AQ65

POLLUTION PREVENTION PLANNING ID NUMBER P06733

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: November 23, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 23, 2010 to November 23, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Farhaud Abbaszadeh

Phone: (512) 239-0779

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- | | | | |
|---|--|----------------------------|--|
| 1 | Effective Date: 12/04/2010 | ADMINORDER 2010-1006-IWD-E | (Findings Order-Agreed Order Without Denial) |
| | Classification: Moderate | | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | | |
| | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Rqmt Prov: Effluent Limits & Mon. Req. Nos. 1 & 2 PERMIT | | |
| | Description: Failed to comply with permitted effluent limitations. | | |
| 2 | Effective Date: 02/09/2014 | ADMINORDER 2013-1460-PWS-E | (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | | |
| | 5A THSC Chapter 341, SubChapter A 341.0315(c) | | |

Description: TTHM MCL 2Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 2nd quarter of 2013 with a RAA of 0.131 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM MCL 1Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2013 with a RAA of 0.103 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: DLQOR MR 4Q2012 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 4th quarter of 2012 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(C)

30 TAC Chapter 290, SubChapter F 290.117(i)(1)

Description: PbCu RD MR 3Y2012 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the triennial reduced monitoring period from 01/01/2010 to 12/31/2012 within the required timeline.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	January 10, 2011	(904138)
Item 2	February 08, 2011	(911010)
Item 3	April 06, 2011	(931072)
Item 4	May 04, 2011	(940015)
Item 5	June 10, 2011	(947416)
Item 6	June 30, 2011	(967372)
Item 7	July 12, 2011	(954671)
Item 8	August 12, 2011	(961253)
Item 9	September 27, 2011	(951956)
Item 10	October 06, 2011	(973309)
Item 11	November 08, 2011	(979439)
Item 12	December 13, 2011	(986284)
Item 13	January 10, 2012	(992663)
Item 14	March 07, 2012	(1005506)
Item 15	April 10, 2012	(1012066)
Item 16	May 07, 2012	(1018461)
Item 17	June 06, 2012	(1026166)
Item 18	July 19, 2012	(1033524)
Item 19	August 15, 2012	(1040048)
Item 20	September 11, 2012	(1049023)
Item 21	October 10, 2012	(1070242)
Item 22	November 15, 2012	(1070243)
Item 23	December 06, 2012	(1070244)
Item 24	January 16, 2013	(1083268)
Item 25	February 20, 2013	(1083267)
Item 26	March 19, 2013	(1091380)
Item 27	April 12, 2013	(1097721)
Item 28	May 15, 2013	(1108750)
Item 29	June 12, 2013	(1112317)
Item 30	July 16, 2013	(1119268)
Item 31	August 14, 2013	(1127020)
Item 32	September 19, 2013	(1131558)
Item 33	October 08, 2013	(1137302)
Item 34	November 08, 2013	(1142725)
Item 35	December 16, 2013	(1149141)
Item 36	January 16, 2014	(1155244)

Item 37	February 07, 2014	(1162552)
Item 38	March 13, 2014	(1169168)
Item 39	April 07, 2014	(1176358)
Item 40	May 13, 2014	(1182599)
Item 41	June 19, 2014	(1189476)
Item 42	July 09, 2014	(1201488)
Item 43	August 11, 2014	(1201489)
Item 44	September 22, 2014	(1207784)
Item 45	October 15, 2014	(1214187)
Item 46	November 18, 2014	(1220417)
Item 47	December 16, 2014	(1226250)
Item 48	January 07, 2015	(1233334)
Item 49	February 04, 2015	(1244236)
Item 50	March 09, 2015	(1250625)
Item 51	April 09, 2015	(1257519)
Item 52	May 13, 2015	(1264282)
Item 53	June 03, 2015	(1271369)
Item 54	July 13, 2015	(1278924)
Item 55	August 11, 2015	(1285129)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | | | |
|---|--|--------------------------|--|
| 1 | Date: 05/21/2015 (1289465) | CN600559272 | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1) | | |
| | Description: TTHM LRAA MCL 2Q2015 - During the second quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.097 mg/L at Break RM, Freeport, TX (DBP2-01). | | |
| 2 | Date: 08/27/2015 (1289465) | CN600559272 | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1) | | |
| | Description: TTHM LRAA MCL 3Q2015 - During the third quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.139 mg/L at Break RM, Freeport, TX (DBP2-01). | | |
| 3 | Date: 08/31/2015 (1292216) | CN600559272 | |
| | Self Report? YES | Classification: Moderate | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Description: Failure to meet the limit for one or more permit parameter | | |
| 4 | Date: 10/30/2015 (1289465) | CN600559272 | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1) | | |
| | Description: TTHM LRAA MCL 4Q2015 - During the fourth quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.143 mg/L at Break RM, Freeport, TX (DBP2-01). | | |

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Appendix A

All NOV's Issued During Component Period 11/23/2010 and 11/23/2015

All NOV's Issued During Component Period 11/23/2010 and 11/23/2015

1	Date:	11/30/2010	(898280)	CN600559272	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
2	Date:	02/28/2011	(918296)	CN600559272	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
3	Date:	01/31/2012	(999998)	CN600559272	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
4	Date:	04/18/2012	(988573)	CN600559272	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) E.L.&M.R., pg. 2, No. 1 PERMIT				
	Description:	Failed to maintain compliance with the permitted effluent limits.				
				Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 319, SubChapter A 319.7(a) 30 TAC Chapter 319, SubChapter A 319.7(c)				
	Description:	Failed to document the calibration of the pH meter.				
				Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) O.R., pg. 12, No. 2 PERMIT				
	Description:	Failed to comply with TPDES permit number 04362-000, Other Requirements, No. 2.				
				Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)				
	Description:	Failed to properly maintain the aeration basins and clarifier.				
5	Date:	06/04/2013	(1104168)	CN600559272	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(4) 5A THSC Chapter 341, SubChapter A 341.0315(c)				
	Description:	TTHM MCL 2Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 2nd quarter of 2013 with a RAA of 0.131 mg/L.				
6	Date:	06/23/2014	(1164294)	CN600559272	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) O.R., pg. 12-13, No. 2 PERMIT				
	Description:	Failed to abide by Other Requirements No. 2.				

7*	Date: 05/21/2015 (1289465)	CN600559272	Classification: Moderate
	Self Report? NO	For Informational Purposes Only	
	Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)		
	Description: TTHM LRAA MCL 2Q2015 - During the second quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.097 mg/L at Break RM, Freeport, TX (DBP2-01).		
8*	Date: 08/27/2015 (1289465)	CN600559272	Classification: Moderate
	Self Report? NO	For Informational Purposes Only	
	Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)		
	Description: TTHM LRAA MCL 3Q2015 - During the third quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.139 mg/L at Break RM, Freeport, TX (DBP2-01).		
9*	Date: 08/31/2015 (1292216)	CN600559272	Classification: Moderate
	Self Report? YES	For Informational Purposes Only	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
10	Date: 10/30/2015 (1289465)	CN600559272	Classification: Moderate
	Self Report? NO	For Informational Purposes Only	
	Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)		
	Description: TTHM LRAA MCL 4Q2015 - During the fourth quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.143 mg/L at Break RM, Freeport, TX (DBP2-01).		

* NOVs applicable for the Compliance History rating period 9/1/2010 to 8/31/2015

Appendix B

All Investigations Conducted During Component Period November 23, 2010 and November 23, 2015

Item 1	December 08, 2010**	(898280)	For Informational Purposes Only
Item 2*	January 10, 2011**	(904138)	For Informational Purposes Only
Item 3*	February 08, 2011**	(911010)	For Informational Purposes Only
Item 4	March 07, 2011**	(918296)	For Informational Purposes Only
Item 5*	April 06, 2011**	(931072)	For Informational Purposes Only
Item 6*	May 04, 2011**	(940015)	For Informational Purposes Only
Item 7*	June 10, 2011**	(947416)	For Informational Purposes Only
Item 8*	June 30, 2011**	(967372)	For Informational Purposes Only
Item 9*	July 12, 2011**	(954671)	For Informational Purposes Only

Item 10*	August 12, 2011**	(961253) For Informational Purposes Only
Item 11*	September 27, 2011**	(951956) For Informational Purposes Only
Item 12*	October 06, 2011**	(973309) For Informational Purposes Only
Item 13*	November 08, 2011**	(979439) For Informational Purposes Only
Item 14*	December 13, 2011**	(986284) For Informational Purposes Only
Item 15*	January 10, 2012**	(992663) For Informational Purposes Only
Item 16	February 13, 2012**	(999998) For Informational Purposes Only
Item 17*	March 07, 2012**	(1005506) For Informational Purposes Only
Item 18*	April 10, 2012**	(1012066) For Informational Purposes Only
Item 19	April 18, 2012**	(988573) For Informational Purposes Only
Item 20*	May 07, 2012**	(1018461) For Informational Purposes Only
Item 21*	June 06, 2012**	(1026166) For Informational Purposes Only
Item 22	July 16, 2012**	(1014843) For Informational Purposes Only
Item 23*	July 19, 2012**	(1033524) For Informational Purposes Only
Item 24*	August 15, 2012**	(1040048) For Informational Purposes Only
Item 25*	September 11, 2012**	(1049023) For Informational Purposes Only
Item 26*	October 10, 2012**	(1070242) For Informational Purposes Only
Item 27*	November 15, 2012**	(1070243) For Informational Purposes Only
Item 28*	December 06, 2012**	(1070244) For Informational Purposes Only
Item 29*	January 16, 2013**	(1083268) For Informational Purposes Only
Item 30*	February 20, 2013**	(1083267) For Informational Purposes Only
		(1091380)

Item 31*	March 19, 2013**	For Informational Purposes Only (1097721)
Item 32*	April 12, 2013**	For Informational Purposes Only (1108750)
Item 33*	May 15, 2013**	For Informational Purposes Only (1112317)
Item 34*	June 12, 2013**	For Informational Purposes Only (1119268)
Item 35*	July 16, 2013**	For Informational Purposes Only (1104168)
Item 36	July 24, 2013**	For Informational Purposes Only (1104237)
Item 37	August 02, 2013**	For Informational Purposes Only (1127020)
Item 38*	August 14, 2013**	For Informational Purposes Only (1131558)
Item 39*	September 19, 2013**	For Informational Purposes Only (1137302)
Item 40*	October 08, 2013**	For Informational Purposes Only (1142725)
Item 41*	November 08, 2013**	For Informational Purposes Only (1149141)
Item 42*	December 16, 2013**	For Informational Purposes Only (1155244)
Item 43*	January 16, 2014**	For Informational Purposes Only (1162552)
Item 44*	February 07, 2014**	For Informational Purposes Only (1169168)
Item 45*	March 13, 2014**	For Informational Purposes Only (1176358)
Item 46*	April 07, 2014**	For Informational Purposes Only (1182599)
Item 47*	May 13, 2014**	For Informational Purposes Only (1189476)
Item 48*	June 19, 2014**	For Informational Purposes Only (1164294)
Item 49	June 23, 2014**	For Informational Purposes Only (1201488)
Item 50*	July 09, 2014**	For Informational Purposes Only (1201489)
Item 51*	August 11, 2014**	For Informational Purposes Only (1207784)

Item 52*	September 22, 2014**	For Informational Purposes Only (1214187)
Item 53*	October 15, 2014**	For Informational Purposes Only (1220417)
Item 54*	November 18, 2014**	For Informational Purposes Only (1226250)
Item 55*	December 16, 2014**	For Informational Purposes Only (1233334)
Item 56*	January 07, 2015**	For Informational Purposes Only (1244236)
Item 57*	February 04, 2015**	For Informational Purposes Only (1250625)
Item 58*	March 09, 2015**	For Informational Purposes Only (1257519)
Item 59*	April 09, 2015**	For Informational Purposes Only (1264282)
Item 60*	May 13, 2015**	For Informational Purposes Only (1271369)
Item 61*	June 03, 2015**	For Informational Purposes Only (1228547)
Item 62	July 01, 2015**	For Informational Purposes Only (1278924)
Item 63*	July 13, 2015**	For Informational Purposes Only (1285129)
Item 64*	August 11, 2015**	For Informational Purposes Only (1292216)
Item 65	September 18, 2015	For Informational Purposes Only (1280255)
Item 66	October 22, 2015	For Informational Purposes Only (1289465)
Item 67	November 06, 2015	For Informational Purposes Only (1289859)
Item 68	November 13, 2015	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2010 and 08/31/2015.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SHIN-ETSU SILICONES OF
AMERICA, INC.
RN102877768**

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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1726-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SHIN-ETSU SILICONES OF AMERICA, INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 5650 East Highway 332 in Freeport, Brazoria County, Texas (the "Facility") that has approximately one service connection and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted from November 2, 2015 through November 13, 2015, TCEQ staff documented that the locational running annual average concentrations for total trihalomethanes ("TTHM") for Disinfection Byproducts Stage 2 at site 1 were 0.097 milligrams per liter ("mg/L") for the second quarter of 2015, 0.139 mg/L for the third quarter of 2015, and 0.143 mg/L for the fourth quarter of 2015.
3. The Respondent received notice of the violations on November 19, 2015.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHM, based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Two Hundred Forty-Three Dollars (\$243) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Two Hundred Forty-Three Dollar (\$243) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Hundred Forty-Three Dollars (\$243) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order

completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: SHIN-ETSU SILICONES OF AMERICA, INC., Docket No. 2015-1726-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the locational running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.115.
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date


For the Executive Director

4/29/16
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of SHIN-ETSU SILICONES OF AMERICA, INC. I am authorized to agree to the attached Agreed Order on behalf of SHIN-ETSU SILICONES OF AMERICA, INC., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, SHIN-ETSU SILICONES OF AMERICA, INC. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
 - Greater scrutiny of any permit applications submitted;
 - Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
 - Increased penalties in any future enforcement actions;
 - Automatic referral to the Attorney General's Office of any future enforcement actions; and
 - TCEQ seeking other relief as authorized by law.
- In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

January 5, 2016
Date

KAZUHIRO KITANI
Name (Printed or typed)
Authorized Representative of
SHIN-ETSU SILICONES OF AMERICA, INC.

PRESIDENT & CEO
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.